725; *Holladay* v. *Patterson,* 5 Ore. 177. An obligation by a common carrier to establish its station at a particular point exclusively is void. *Beasley* v. *Tex. & Pac. R. Co.,* 191 U. S. 492; *Florida C. & P. R. Co.* v. *State,* 31 Fla. 482; *Williamson* v. *Chi. R. I. & P. R. Co.,* 53 Iowa 126. In the principal case, it is considered by the court that the limitation requiring the depot to be constructed back a certain distance from the street is one with which the public has no concern, it being "purely a private matter affecting alone the private rights between the parties to the litigation."

SUNDAY—PUBLIC AMUSEMENTS—"ANY SUCH PLACE OF PUBLIC AMUSEMENT."—Petitioner, a proprietor of a "scenic railway," was convicted under § 6825 of the Revised Codes of Idaho which provides "It shall be unlawful for any person or persons in this state to keep open on Sunday—any theater, playhouse, dance hall, race-track, merry-go-round, circus or show, concert saloon, billiard or pool room, bowling alley, variety hall, or any such place of public amusement." *Held,* a "scenic railway" does not come within the prohibition of the statute and the petitioner must be discharged. *Ex parte Hull* (1910), — Idaho —, 110 Pac. 256.

Questions as to the construction of statutes of this nature containing, as here, the clause "or any such place of public amusement" or in general the clause "or any such—etc., etc." often present more or less difficulty. Many decisions have been based on the argument that a penal statute must be limited in its application to the object which the legislature has in view; that it is necessary to aver a cause within its terms. 2 SUTHERLAND, STATUTORY CONSTRUCTION, p. 987; *Reed* v. *Davis,* 8 Pick. 514; *McDonald* v. *Montana Wood Co.,* 14 Mont. 88, 35 Pac. 668, 43 Am. St. Rep. 616; *Rucker* v. *State,* 67 Miss. 328, 7 South. 223; *Commonwealth* v. *Alexander,* 185 Mass. 551, 70 N. E. 1017. But it is also laid down that the principles of construction and apparent exception to the maxim *"ejusdem generis"* apply as well to criminal statutes as to others. *Maxwell* v. *People,* 158 Ill. 248, 41 N. E. 995; *Gillock* v. *People,* 171 Ill. 307, 49 N. E. 712; 2 SUTHERLAND, STATUTORY CONSTRUCTION, p. 835; *State* v. *Holman,* 3 McCord 306; *State* v. *Fearson,* 2 Md. 310; *City of St. Joseph* v. *Elliott,* 47 Mo. App. 418. While these two views are perhaps not precisely inconsistent it is true that under the second one a greater latitude is allowed as to what a statute of this nature includes. It is possible that under this latter view the principal case would have been decided adversely to the petitioner in spite of the differentiation attempted by the court between the "scenic railway" and the "merry-go-round."

SURETYSHIP—PAYMENT BY COSURETY AFTER STATUTORY PERIOD.—One of the cosureties on a note of an insolvent corporation made several part payments on the note after maturity, but before the expiration of six years, the period of the statute of limitations. Within six years of the last of these payments, but more than six years after maturity, he made another part payment, and now sues to enforce contribution as to this last payment. *Held,* that he can not recover, as his payments did not toll the statute as to the others. *McLin* v. *Harvey* (1910), — Ga. App. —, 69 S. E. 123.

Three distinct doctrines have been enunciated as to this class of cases.

First: "Payment by one is payment for all." Lord MANSFIELD in *Whitcomb* v. *Whiting,* 2 Doug. 652. Whether or not this case is authority for the broad proposition that payment by one, even after the statute has run, will revive as to the others is doubtful, although it is frequently so cited. The decision was never popular with the judiciary in England, *Atkins* v. *Tredgold,* 3 B. & C. 23, and has since been repealed by statute: Lord Tenterden's Act, 9 Geo. 4, Mercantile Law Amendment Act, 1856. It was at first followed in New York, *Smith, Admr.* v. *Ludlow,* 6 Johns, 267; *Johnson Admr.* v. *Beardslee,* 15 Johns. 3; *Patterson* v. *Choate,* 7 Wend. 441, but is completely overruled, *Walden* v. *Sherburne,* 15 Johns. 409; *Baker* v. *Stackpoole,* 9 Cow. 420; *Van Keuren* v. *Parmelee,* 2 Comst. 523; *Hixson* v. *Rodbourn,* 73 N. Y. Supp. 779. This theory is probably without support today. Second: Payment by one co-obligor sets a new starting point for the running of the statute as to all, if made before the period expires, Judge LAMAR in *Brewster* v. *Hardeman,* Dudley (Ga.) 138. This view is rejected in the principal case, partly, however, because of the fact that the spirit of the code made a change imperative. See also *State National Bank* v. *Harris,* 96 N. C. 118; *Regan* v. *Williams,* 88 Mo. App. 577. Third: One co-obligor has no authority to toll the statute as to the others, Judge STORY in *Bell* v. *Morrison,* 1 Pet. 351, and upheld in the principal case. *Exeterbank* v. *Sullivan,* 6 N. H. 124, *Hunter* v. *Robinson,* 30 Ga. 479. This is almost the universal doctrine today, as laid down by statutes and decisions.

TORTS.—OBSTRUCTION OF LEGAL REMEDIES—LIABILITIES.—The defendant in a civil action answered by a general denial and verified his answer, but asked no affirmative relief, and judgment was rendered against him. Defendant knew at the time he answered that the allegations of the petition were true. In an action brought by the plaintiff in the former action to recover for expenses incurred in obtaining proof to sustain the allegations of his petition, *held,* that defendant was not liable. *Baxter* v. *Brown et al.* (1910), — Kan. —, 111 Pac. 430.

The question here presented, *i. e.,* whether a successful plaintiff may maintain an action for the malicious defense of a former action, seems never to have been passed upon before by the Kansas court, and no reported case involving the question has been found. As to whether an action may be maintained for the malicious prosecution of a civil action where there has been no arrest of the person, seizure of property or special injury, the decisions of the courts are in irreconcilable conflict. See 19 AM. & ENG. ENCY. OF LAW, Ed. 2, pp. 651-2. Some of the courts denying this right give as one of the reasons therefor that if the defendant may sue for extra costs and expenses incurred in defending against an unfounded prosecution, the plaintiff ought to be allowed to bring a like action when the defendant makes an unfounded defense, *Smith* v. *Mich. Buggy Co.* (1898), 175 Ill. 619; *Wetmore* v. *Mellinger,* 64 Iowa 741, 18 N. W. 870; *Luby* v. *Bennett,* 111 Wis. 613; and it is rather difficult to see how this right can be denied in a jurisdiction in which an action for the malicious prosecution of a civil suit may be maintained. In the principal case, however, the Supreme Court of Kansas, though